

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

Michael Lee Rose,

Plaintiff,

v.

Rose v. Tabron et al, et al.

Defendant.

Civil Action No. 1:06-cv-0370 JJF

MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff Michael Lee Rose pursuant to 28 U.S.C. § 1915,

request this court to appoint counsel to represent petitioner in the above-entitled action for the following reasons:

In deciding whether to appoint counsel for an indigent litigant, the District Court of Delaware articulated standards for evaluating a Motion for Appointment of Counsel filed by a *pro se* plaintiff. See Green v. FCM, 430 F. Supp.2d 383, 387 n. 3 (D. Del. 2006) (citing Tabron v. Grace, 6 F.3d 147 (3<sup>rd</sup> Cir. 1993) and Parhan v. Johnson, 126 F.3d 454 (3<sup>rd</sup> Cir. 1997)). Initially, the Court must examine the merits of a plaintiff's claim to determine whether it has some arguable merit in fact and law. See Parhan, 126 F.3d at 457 (citing Tabron, 6 F.3d 157); accord Maclin v. Freake, 65 F.2d 885, 887 (7<sup>th</sup> Cir. 1981) (per curium) (cited with approval in Tabron and Parhan). Only if the Court is satisfied that the claim is factually and legally meritorious, should it then examine the following factors: (1) the plaintiff's ability to present his own case; (2) the complexity of the legal issues presented; (3) the extensiveness of the factual

investigation necessary to effectively litigate the case and the plaintiff's ability to pursue such an investigation; (4) the degree to which the case may turn on credibility determination; (5) whether the testimony of expert witness will be necessary; and (6) whether the plaintiff can attain and afford counsel on his own behalf.

In support of this motion, the plaintiff avers the following:

1. The plaintiff's does not have the ability to present his own case.
2. The plaintiff is unskilled in the law and the complexity of the legal issues presented in the complaint is beyond plaintiff's abilities to pursue an effective investigation.
3. The plaintiff avers that the case may turn on credibility determination.
4. The plaintiff avers that testimony of expert witnesses will be necessary.
5. The plaintiff can not attain and afford counsel on his own behalf.
6. Appointment of counsel would serve "the best interest of justice" in this case.
7. The plaintiff's allegations if proved, clearly would establish a constitutional

violation because

Plaintiff Received Severe personal injury  
Serious Medical Needs were consciously disregarded  
resulting in Severe Mental and emotional injuries  
causing lasting and Permanent injury, Both Physical  
and Mental. Please Disregard last motion  
Michael Lee Rose

For the foregoing reasons, the plaintiff has provided the court with sufficient foundation for the court to appoint counsel in this case.

Dated: NOV. 17, 2007

A handwritten signature in cursive script, reading "Michael Lee Rose", written over a horizontal line.

Delaware correctional center  
1181 Paddock Road  
Smyrna, DE 19977

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|               |   |                        |
|---------------|---|------------------------|
| _____         | ) |                        |
|               | ) |                        |
| Plaintiff,    | ) |                        |
|               | ) |                        |
| v.            | ) | Civil Action No. _____ |
|               | ) |                        |
|               | ) |                        |
| _____, et al, | ) |                        |
|               | ) |                        |
| Defendant.    | ) |                        |

ORDER

IT IS HEREBY ORDERED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
200\_\_, THAT THE ATTACHED MOTION FOR APPOINTMENT OF COUNSEL HAS BEEN  
READ AND CONSIDERED. IT IS ORDERED THAT THE MOTION IS  
HEREBY \_\_\_\_\_.

\_\_\_\_\_  
United States District Court Judge

Certificate of Service

I, Michael Lee Rose, hereby certify that I have served a true

And correct cop(ies) of the attached: Motion for appointment of  
Counsel upon the following

parties/person (s):

TO: THE UNITED STATES  
DISTRICT COURT FOR THE  
DISTRICT OF DELAWARE  
844 N King St P.O. Box 18  
Wilm, Del. 19801-3570

TO: Kevin J. Connors  
Marshall, Dennehey, Warner, Coleman & G.  
1220 N Market St Suite 500  
P.O. Box 8888  
Wilm, Del. 19899

TO: Daniel L. McKenty  
Heckler & Frabizzio  
800 Delaware Ave.  
Suite 200, P.O. Box 128  
Wilm. Del 19899-0128

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 7 day of NOV, 2007

Michael Lee Rose

IM Michael Lee Rose  
SBI# 097880 UNIT T-2-38  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

United States District Court  
844 N. King St Lock 130418  
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U.S. DISTRICT COURT  
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